

REMARKS

Notwithstanding Applicant's previous response and distinguishing remarks, the present Office Action has continued to reject all examined claims. In response, Applicant submits the following additional distinguishing remarks. As the Office Action maintains rejections set out previously, Applicant repeats and realleges the distinguishing remarks previously made in this file history. In addition, the Applicant respectfully requests that the Examiner consider the following additional distinctions.

Response to Rejections under 35 U.S.C. 103

Claims 1, 3-9, 11-18, and 20 stand rejected under 35 U.S.C. 103(a) as allegedly unpatentable over Okabe (US Patent. No. 6,535,778) in view of Wiesler (US Patent Application Publication No. 2001/0047222). Among these rejected claims, claims 1, 9, and 16 are independent. Claims 9 and 16 are rejected on the same basis as claim 1. Therefore, remarks are provided regarding to patentability of the independent claim 1 and claims depended thereto, respectively.

Not all limitations of claim 1 are taught or suggested by Okabe and Wiesler

In order for a claim to be properly rejected under 35 U.S.C. §103(a), the teachings of the prior art reference must suggest all features of the claimed invention to one of ordinary skill in the art. See, e.g., *In re Dow Chemical*, 837 F.2d 469, 5 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1988); *In re Keller*, 642 F.2d 413, 208 U.S.P.Q. 871, 881 (C.C.P.A. 1981).

The Office Action (page 6) states that “Okabe discloses all claimed limitations, except for a tool stocking and sorting method wherein the tool is a reticle”. Applicant respectfully disagrees.

The tool stocking and sorting system is not disclosed by Okabe

The Office Action (page 2) states that Okabe teaches “a tool stocking and sorting system”. Okabe, however, teaches nothing about handling “tools”, let along a system and method for tool stocking and sorting.

The Office Action insists that the ‘lots’ or the plurality of semiconductor equipment, can be construed as tools. According to the Office Action, “tool” can be defined as ‘an implement used to do work or perform a task’. Using the Examiner’s definition, the ‘lot’ of Okabe cannot properly be construed as ‘tool’. In this regard, and according to the teachings of Okabe, one of ordinary skill in the art should understand that a ‘lot’ is what is “processed” in a semiconductor manufacturing factory, rather than ‘an implement used to do work or perform a task’. The way the Examiner construes the words ‘tool’ and ‘lot’ is far from normal (i.e., a tool is an implement that processes something else, it is not itself processed, as are the “lots”).

The lots taught by Okabe and the tools defined in the claimed embodiments are therefore fundamentally different. The lot taught by Okabe is the subject matter that is actually being processed; while the tool (reticle) defined in the claimed embodiments is used during process procedures but not being processed itself, and can be reused repeatedly. The fact that a reticle is used as a tool in semiconductor manufacturing and that a reticle is used repeatedly are common sense for one of ordinary skill in the art.

Because the tools can be reused, difference in usage frequency exists among different tools. The claimed embodiments provides three distinct storages (i.e., the “first tool storage”, “second tool storage”, and “third tool storage”) for storing tools from currently in use to left unused. Because of the difference in nature, the method of handling tools taught by the claimed embodiments cannot be properly anticipated by the method of processing lots taught by Okabe.

Accordingly, the “tool stocking and sorting system and method” of claims 1, 9, and 16 are not disclosed by Okabe. For at least this reason, the rejections of these claims should be withdrawn.

Okabe does not disclose three distinct tool storages of claim 1

In addition, Applicant notes that Okabe does not disclose three distinct tool storages of claim 1 (i.e. the “first tool storage”, “second tool storage”, and “third tool storage” of claim 1).

In column 2, lines 44-52, and Fig. 9 of Okabe, Okabe teaches “a hold stocker for holding each lot in a standby state”. According to Okabe, the hold stocker is used to hold a preceding lot and a subsequent lot in a standby state. In addition, in lines 48-50, Okabe teaches “a pre-treatment processing equipment for pre-treating each lot brought out from said hold stocker on the basis of standby release order”.

According to Okabe, the hold stocker stores each and every lot, which is to be processed by the pre-treatment processing equipment. In contrast, the “third tool storage” of the present application is used to store tools not in use. The lots stored in the hold stocker of Okabe, however, are in “a standby state”, and are going to be

treated by the pre-treatment processing equipment on the basis of standby release order. Accordingly, to those skilled in the art, “a hold stocker for holding each lot in a standby state” (Column 2, lines 44-52, and Fig. 9 of Okabe) would not be construed as the three tool storages storing reticles in different usage status (i.e., currently in use, not currently in use, and not in use).

Accordingly, to those skilled in the art, the hold stocker of Okabe does not disclose three distinct tool storages of claim 1. For at least this additional reason, the rejections should be withdrawn.

Okabe does not disclose the host system of claim 1

Applicant further submits that Okabe does not disclose “a host system (11) adapted to re-locate the first, second, and third tools among the first, second, and third storages as a function of demand data pertaining to a product corresponding to the respective tool” of claim 1.

In Ccolumn 8, lines 32-34, Okabe teaches a FA computer and equipment control terminal 16. The FA computer 11 comprises a reference information storage section 13, a product in-process information storage section 14, a collected data storage section 15, and an arithmetic unit control section 12. The FA computer 11 has nothing to do with the operation of “re-locate” tools among distinct storages in the manufacturing process. There, the FA computer 11 has nothing to do with “host system” of claim 1.

Accordingly, to those skilled in the art, the FA computer 11 of Okabe does not disclose host system of claim 1. For at least this addition reason, the rejection of claim 1 should be withdrawn.

No Suggestion and Motivation to Combine Okabe and Wiesler

The Office Action (page 6) states that “It would have been obvious to a person of ordinary skill in the art at the time of applicant’s invention to modify Okabe by utilizing a tool stocking and sorting method wherein the tool is a reticle for the purpose of efficiently and cost effectively manufacturing integrated circuits”.

As discussed above, Okabe does not disclose all claimed limitations. In addition, applicant notes that the combination is improper. The lots taught by Okabe and the tools defined in the claimed embodiments are different in nature. The lot taught by Okabe is the subject matter that is actually being processed; while the tool (reticle) taught in the claimed invention is used during process procedures but not being processed itself, and can be reused repeatedly. The fact that a reticle is used as a tool in semiconductor manufacturing and that a reticle is used repeatedly are common sense for one of ordinary skill in the art. Because of the difference in nature of reticle and lot in a semiconductor manufacturing environment, the nature of the problem to be solved by Okabe differs from the present application.

In addition, Okabe and Wiesler do not provide suggestion or motivation to modify the references. Furthermore, according to knowledge of persons of ordinary skill in the art, there is no motivation to use the technique of Okabe to manage reticles within a semiconductor manufacturing environment. The Office Action alleged that the combination of Okabe and Weisler “would have been obvious … for the purpose of efficiently and cost effectively manufacturing integrated circuits.” (see e.g., Office Action, p. 6)

This rationale is both incomplete and improper in view of the established standards for rejections under 35 U.S.C. § 103.

In this regard, the MPEP section 2141 states:

Office policy has consistently been to follow *Graham v. John Deere Co.* in the consideration and determination of obviousness under 35 U.S.C. 103. As quoted above, the four factual inquires enunciated therein as a background for determining obviousness are briefly as follows:

- (A) Determining of the scope and contents of the prior art;
- (B) Ascertaining the differences between the prior art and the claims in issue;
- (C) Resolving the level of ordinary skill in the pertinent art; and
- (D) Evaluating evidence of secondary considerations.

...

BASIC CONSIDERATIONS WHICH APPLY TO OBVIOUSNESS REJECTIONS

When applying 35 U.S.C. 103, the following tenets of patent law must be adhered to:

- (A) The claimed invention must be considered as a whole;
- (B) The references must be considered as a whole and must suggest the desirability and thus the obviousness of making the combination;
- (C) The references must be viewed without the benefit of impermissible hindsight vision afforded by the claimed invention and
- (D) Reasonable expectation of success is the standard with which obviousness is determined.

Hodosh v. Block Drug Co., Inc., 786 F.2d 1136, 1143 n.5, 229 USPQ 182, 187 n.5 (Fed. Cir. 1986).

The foregoing approach to obviousness determinations was recently confirmed by the United States Supreme Court decision in KSR INTERNATIONAL CO. V. TELEFLEX INC. ET AL. 550 U.S. ____ (2007)(No. 04-1350, slip opinion, p. 2), where the Court stated:

In *Graham v. John Deere Co.* of Kansas City, 383 U. S. 1 (1966), the Court set out a framework for applying the statutory language of §103,

language itself based on the logic of the earlier decision in *Hotchkiss v. Greenwood*, 11 How. 248 (1851), and its progeny. See 383 U. S., at 15–17. The analysis is objective:

“Under §103, the scope and content of the prior art are to be determined; differences between the prior art and the claims at issue are to be ascertained; and the level of ordinary skill in the pertinent art resolved. Against this background the obviousness or nonobviousness of the subject matter is determined. Such secondary considerations as commercial success, long felt but unsolved needs, failure of others, etc., might be utilized to give light to the circumstances surrounding the origin of the subject matter sought to be patented.” *Id.*, at 17–18.

Simply stated, the Office Action has failed to at least (1) ascertain the differences between and prior art and the claims in issue; and (2) resolve the level of ordinary skill in the art. Furthermore, the alleged rationale for combining the two references (i.e., efficiently and cost effectively manufacturing integrated circuits) embodies clear and improper subjective hindsight rationale. For at least these additional reasons, Applicant submits that the rejections of all claims are improper and should be withdrawn.

For these addition reasons, teachings of Okabe and Wiesler do not suggest all features of the claim 1 to one of ordinary skill in the art. Accordingly, the rejection of claim 1 should be withdrawn.

On the same basis as claim 1, the rejections of claims 9 and 16 should be withdrawn, as these claims were rejected on the same basis as claim 1. As all remaining claims depend from either claim 1, 9, or 16, the rejections of all claims should be withdrawn for at least the foregoing reasons.

Conclusion

In view of the foregoing remarks, Applicant respectfully requests reconsideration of the application and the timely allowance of claims.

If the Examiner believes that a telephone conference would expedite the examination of the above-identified patent application, the Examiner is invited to call the undersigned.

No fee is believed to be due in connection with this submission. If, however, any fee is believed to be due, you are hereby authorized to charge any such fee to deposit account No. 20-0778.

Respectfully submitted,

/Daniel R. McClure/

Daniel R. McClure
Reg. No. 38,962

THOMAS, KAYDEN, HORSTEMEYER & RISLEY, L.L.P.
100 Galleria Pkwy, NW
Suite 1750
Atlanta, GA 30339
(770) 933-9500